IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

FAO.No. 186 of 2007()

AGAINST THE ORDER DATED 23/06/2007 IN IA.2245/2006 IN OS.321/2006 of ADDL.SUB COURT,PARAVUR

.....

APPELLANT/PETITIONER/PLAINTIFF

V.S.RAMAKRISHNAN, AGED 59 YEARS,
S/O. V.A.SANKUNNY, RAMA RADHA NILAYAM,
N.H.BYE PASS, VENNALA P.O., KOCHI-682 028.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.A.S.SAJUSH PAUL

RESPONDENTS: RESPONDENT/DEFENDANT

P.M.MUHAMMED ALI,
PADIYATH HOUSE, EDAVILANGU P.O., KODUNGALLOOR.

BY ADV. SRI.JOSEPH MARKOSE
SRI.JOSEPH KODIANTHARA
SRI.MATHEWS K.UTHUPPACHAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN &
V.K.MOHANAN, JJ.

.....

F.A.O. No.186 of 2007

.....

Dated this the 16th day of October, 2007.

JUDGMENT

Raman, J.

Heard both sides. This is an appeal against an order dismissing an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure seeking temporary injunction. The suit is one for specific performance. Along with the suit an application for temporary injunction was filed which was granted exparte and subsequently on appearance by the respondent herein, the matter was heard and by the impugned order the same was vacated, against which plaintiff has preferred this appeal.

2. During the course of argument learned counsel appearing on behalf of the respondent fairly submitted that he gives an undertaking that during the pendency of the suit, the defendant will not alienate or part with possession of the property in question. The learned counsel appearing for the respondent however submitted that his client may not be prevented from entering into any agreement for sale with any third party. Of course this is opposed by the learned counsel appearing for the appellant. Having heard both sides we direct that in case the respondent enters into an agreement for

sale with third party, such agreement shall contain a clause that the same is subject to result of the suit in O.S. No.321/2006 of Sub Court, Parur.

3. However, in view of the fact that there is undertaking given, there will be direction to the court below to expedite the trial of the suit and dispose of the same in accordance with law, as far as possible within a period of three months. However, if it could not be disposed of for any valid reasons, the court below shall dispose of it atleast within a period of four months. Both sides shall co-operate for the expeditious disposal of the suit and it is with the above understanding that the time limit is fixed by this court.

The appeal is disposed of as above.

P.R.RAMAN
Judge

V.K.MOHANAN
Judge

pms